

AN ACT

1
2 relating to certain health, safety, and professional regulation,
3 including safety standards for elevators, escalators, and related
4 equipment, the licensing and regulation of air conditioning and
5 refrigeration contractors and technicians, and the establishment
6 and operation of certain perpetual care cemeteries; providing
7 penalties.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

9 SECTION 1. Section 711.008, Health and Safety Code, is
10 amended by amending Subsection (b) and adding Subsection (h) to
11 read as follows:

12 (b) Subsection (a) does not apply to:

13 (1) a cemetery heretofore established and operating;

14 (2) the establishment and use of a columbarium by an
15 organized religious society or sect that is exempt from income
16 taxation under Section 501(a), Internal Revenue Code of 1986, by
17 being listed under Section 501(c)(3) of that code, as part of or
18 attached to the principal church building owned by the society or
19 sect;

20 (3) the establishment and use of a columbarium by an
21 organized religious society or sect that is exempt from income
22 taxation under Section 501(a), Internal Revenue Code of 1986, by
23 being listed under Section 501(c)(3) of that code, on land that:

24 (A) is owned by the society or sect; and

(B) is part of the campus on which an existing principal church building is located;

(4) the establishment and use of a columbarium on the campus of a private or independent institution of higher education, as defined by Section 61.003, Education Code, that is wholly or substantially controlled, managed, owned, or supported by or otherwise affiliated with an organized religious society or sect that is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code, if a place of worship is located on the campus; [ex]

(5) the establishment and use of a mausoleum that is:

(A) constructed beneath the principal church building owned by an organized religious society or sect that:

(i) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code; and

(ii) has recognized religious traditions and practices of interring the remains of ordained clergy in or below the principal church building; and

(B) used only for the interment of the remains of ordained clergy of that organized religious society or sect; or

(6) the establishment and operation, if authorized in accordance with Subsection (h), of a perpetual care cemetery by an organized religious society or sect that:

(A) is exempt from income taxation under Section 501(a), Internal Revenue Code of 1986, by being listed under Section 501(c)(3) of that code;

(B) has been in existence for at least five years;

(C) has at least \$500,000 in assets; and

(D) establishes and operates the cemetery on land that:

(i) is owned by the society or sect;

(ii) together with any other land owned by the society or sect and adjacent to the land on which the cemetery is located, is not less than 10 acres; and

(iii) is in a municipality with a population of at least one million that is located predominantly in a county that has a total area of less than 1,000 square miles.

(h) The governing body of a municipality described by Subsection (b)(6)(D)(iii) may authorize the establishment and use in accordance with Subsection (b)(6) of a cemetery located inside the boundaries of the municipality if the municipality determines and states in the ordinance that the establishment or use of the cemetery does not adversely affect public health, safety, and welfare.

SECTION 2. Sections 754.015(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a) The commission by rule shall provide for:

(1) an annual inspection and certification of the equipment covered by standards adopted under this subchapter;

(2) enforcement of those standards;

(3) registration of qualified inspectors and contractors;

(4) the form of inspection documents, contractor reports, and certificates of compliance;

(5) notification to building owners, architects, and other building industry professionals regarding the necessity of annually inspecting equipment;

(6) approval of continuing education programs for registered QEI-1 certified inspectors; ~~and~~

(7) standards of conduct for individuals who are registered under this subchapter;

(8) general liability insurance as a condition of contractor registration with coverage of not less than:

(A) \$1 million for each single occurrence of bodily injury or death; and

(B) \$500,000 for each single occurrence of property damage;

(9) the submission and review of plans for the installation or alteration of equipment; and

(10) continuing education requirements for renewal of contractor registration.

(b) The commission by rule may not:

(1) require inspections of equipment to be made more often than every 12 months, except as provided by Subsection (c);

(2) require persons to post a bond or furnish insurance or to have minimum experience or education as a condition of certification or registration, except as otherwise provided by this chapter;

~~[(3) require building owners to submit to the~~

1 ~~department proposed plans for equipment installation or~~
2 ~~alteration,]~~ or

3 (3) [~~4~~] prohibit a QEI-1 certified inspector who is
4 registered with the department from inspecting equipment.

5 (d) The executive director may charge a reasonable fee as
6 set by the commission for:

7 (1) registering or renewing registration of an
8 inspector;

9 (2) registering or renewing registration of a
10 contractor;

11 (3) applying for a certificate of compliance;

12 (4) filing an inspection report as required by Section
13 754.019(a)(3), 30 days or more after the date the report is due, for
14 each day the report remains not filed after the date the report is
15 due;

16 (5) submitting for review plans for the installation
17 or alteration of equipment;

18 (6) reviewing and approving continuing education
19 providers and courses for renewal of contractor registration;

20 (7) applying for a waiver, variance, or delay; and

21 (8) [~~6~~] attending a continuing education program
22 sponsored by the department for registered QEI-1 inspectors.

23 SECTION 3. Section 754.0171(b), Health and Safety Code, is
24 amended to read as follows:

25 (b) A contractor shall submit an application for
26 registration or renewal of registration, as applicable, and pay
27 appropriate fees to the department. The registration application

1 form shall ~~[may]~~ require:

2 (1) information concerning the background,
3 experience, and ~~[or]~~ identity of the applicant;

4 (2) designation of and information regarding the
5 responsible party or parties under Section 754.0173; and

6 (3) documentation of fulfillment of the continuing
7 education requirements for renewal of registration, if applicable.

8 SECTION 4. Subchapter B, Chapter 754, Health and Safety
9 Code, is amended by adding Sections 754.0173 and 754.0174 to read as
10 follows:

11 Sec. 754.0173. DESIGNATION OF RESPONSIBLE PARTY OR PARTIES.

12 (a) Each contractor who registers with the department must
13 designate at least one but not more than two responsible parties.

14 (b) A responsible party designated under this section must:

15 (1) have a minimum of three years of elevator
16 contractor experience related to elevator installation, repair,
17 and maintenance; and

18 (2) comply with continuing education requirements as
19 determined by commission rule in order for an elevator contractor
20 to renew an elevator contractor registration.

21 (c) The commission shall adopt rules regarding
22 documentation of the completion of the continuing education to
23 accompany the application for registration.

24 (d) A responsible party may be added to or removed from the
25 registration at any time by providing written notice to the
26 department. If a responsible party is added to a registration, the
27 written notice must include evidence that the responsible party

1 meets the requirements of this section.

2 Sec. 754.0174. CONTINUING EDUCATION FOR RENEWAL OF
3 CONTRACTOR REGISTRATIONS. (a) Each contractor's responsible party
4 must complete continuing education requirements set by commission
5 rule before the contractor may renew the contractor's registration.

6 (b) A provider of continuing education under this section
7 must:

8 (1) register with the department; and

9 (2) comply with rules adopted by the commission
10 relating to continuing education for a designated responsible
11 party.

12 SECTION 5. Section 1302.002, Occupations Code, is amended
13 by amending Subdivision (5-b) and adding Subdivision (5-c) to read
14 as follows:

15 (5-b) "Apprenticeship program" means an air
16 conditioning and refrigeration training program that is:

17 (A) recognized by the Texas Workforce Commission
18 or the Texas Higher Education Coordinating Board;

19 (B) registered with the United States Department
20 of Labor; or

21 (C) a competency-based standardized craft
22 training program that meets the standards of the United States
23 Department of Labor Office of Apprenticeship.

24 (5-c) "Certified technician" means a registered
25 technician who has completed a certification examination.

26 SECTION 6. Subchapter C, Chapter 1302, Occupations Code, is
27 amended by adding Section 1302.1011 to read as follows:

1 Sec. 1302.1011. RULES. The commission shall adopt rules:

2 (1) providing for the licensing and registration of
3 persons under this chapter, including requirements for the issuance
4 and renewal of a contractor license and a technician registration;

5 (2) establishing fees necessary for the
6 administration of this chapter, including fees for issuance and
7 renewal of a contractor license and a technician registration; and

8 (3) implementing the requirements of this chapter as
9 applicable to persons, entities, and activities regulated under
10 this chapter.

11 SECTION 7. Section 1302.102(a), Occupations Code, is
12 amended to read as follows:

13 (a) The commission by rule ~~[executive-director]~~ shall set
14 insurance requirements for a license holder under this chapter.

15 SECTION 8. Section 1302.105, Occupations Code, is amended
16 to read as follows:

17 Sec. 1302.105. PERSONNEL~~[, — EXAMINERS]~~. ~~[(a)]~~ The
18 department may employ personnel necessary to administer this
19 chapter.

20 ~~[(b) The department shall employ at least two full-time air~~
21 ~~conditioning and refrigeration contractors to serve as examiners.]~~

22 SECTION 9. Section 1302.202, Occupations Code, is amended
23 to read as follows:

24 Sec. 1302.202. APPOINTED MEMBERS. (a) Except for the
25 public member, each ~~[Each]~~ appointed advisory board member must be
26 experienced in the design, installation, construction,
27 maintenance, service, repair, or modification of equipment used for

1 environmental air conditioning, commercial refrigeration, or
2 process cooling or heating. Other than the public member, of [Of]
3 the appointed members:

4 (1) one must be an official of a municipality with a
5 population of more than 250,000;

6 (2) one must be an official of a municipality with a
7 population of not more than 250,000; and

8 (3) four must be full-time licensed air conditioning
9 and refrigeration contractors, as follows:

10 (A) one member who holds a Class A license and
11 practices in a municipality with a population of more than 250,000;

12 (B) one member who holds a Class B license and
13 practices in a municipality with a population of more than 250,000;

14 (C) one member who holds a Class A license and
15 practices in a municipality with a population of more than 25,000
16 but not more than 250,000; and

17 (D) one member who holds a Class B license and
18 practices in a municipality with a population of not more than
19 25,000.

20 (b) At least one ~~[appointed]~~ advisory board member
21 appointed under Subsection (a)(3) must be an air conditioning and
22 refrigeration contractor who employs organized labor ~~[and at least~~
23 ~~two appointed members must be air conditioning and refrigeration~~
24 ~~contractors who are licensed engineers]~~.

25 SECTION 10. The heading to Subchapter F, Chapter 1302,
26 Occupations Code, is amended to read as follows:

27 SUBCHAPTER F. AIR CONDITIONING AND REFRIGERATION CONTRACTORS

[~~LICENSE REQUIREMENTS~~]

SECTION 11. Section 1302.251, Occupations Code, is amended to read as follows:

Sec. 1302.251. LICENSE REQUIRED. (a) A person may not engage in air conditioning and refrigeration contracting unless the person holds an air conditioning and refrigeration contractor ~~[a]~~ license under this subchapter or Subchapter G.

(b) An air conditioning and refrigeration contractor ~~[A]~~ license issued under this subchapter is valid throughout the state. A person who holds a license issued under this subchapter is not required to hold a municipal license under Subchapter G to engage in air conditioning and refrigeration contracting in any municipality in this state.

(c) A person holding an air conditioning and refrigeration contractor license may assign that license to only one permanent office of one air conditioning and refrigeration contracting company.

SECTION 12. Section 1302.255, Occupations Code, is amended to read as follows:

Sec. 1302.255. ELIGIBILITY REQUIREMENTS. (a) An applicant for a license under this subchapter ~~[chapter]~~ must:

(1) be at least 18 years old; and

(2) have at least 48 ~~[36]~~ months of practical experience in air conditioning and refrigeration-related work under the supervision of a licensed air conditioning and refrigeration contractor ~~[with the tools of the trade]~~ in the preceding 72 months ~~[five years]~~.

1 (a-1) An applicant who has equivalent experience in another
2 state or who held an equivalent license in another state may receive
3 credit for the experience as determined by the executive director.

4 (b) Notwithstanding the requirements of ~~[For purposes of~~
5 ~~determining an applicant's practical experience under]~~ Subsection
6 (a)(2), an applicant may satisfy a portion of the practical
7 experience requirement as provided by Subsection (c).

8 (c) An applicant who obtains a degree or diploma or
9 completes a certification program from an institution of higher
10 education that holds a certificate of authority issued by the Texas
11 Higher Education Coordinating Board, or an equivalent governing
12 body in another state as approved by the executive director, may
13 satisfy a portion of the practical experience requirement as
14 follows:

15 (1) completing a four-year degree or diploma in air
16 conditioning engineering or technology, refrigeration engineering
17 or technology, or mechanical engineering is equivalent to 24 months
18 [two years] of practical experience [if

19 ~~[(1) the degree or diploma is from an institution of~~
20 ~~higher education]; [and]~~

21 (2) completing a two-year associate's degree, a
22 two-year diploma, or a two-year certification program primarily
23 focused on air conditioning and refrigeration-related work is
24 equivalent to 12 months of practical experience;

25 (3) completing a one-year certification program, or a
26 program of at least two semesters, in air conditioning and
27 refrigeration-related work is equivalent to six months of practical

1 experience; and

2 (4) completing a program resulting in another
3 applicable degree, diploma, or certification shall be equivalent to
4 the amount of practical experience determined by the department
5 under commission rule ~~[the institution's program is approved by the~~
6 ~~Texas Board of Professional Engineers for the purpose of licensing~~
7 ~~engineers]~~.

8 (d) Every 2,000 hours of on-the-job training in an
9 apprenticeship program is equivalent to 12 months of practical
10 experience under Subsection (a)(2).

11 (e) Notwithstanding the requirements of Subsection (a)(2),
12 each of the following qualifies as practical experience for
13 purposes of satisfying the 48-month requirement:

14 (1) verified military service in which the person was
15 trained in or performed air conditioning and refrigeration-related
16 work as part of the person's military occupational specialty; and

17 (2) experience performing air conditioning and
18 refrigeration-related work as described by Section 1302.055,
19 1302.056, or 1302.057 or while employed by a governmental entity.

20 SECTION 13. Sections 1302.256(a) and (c), Occupations Code,
21 are amended to read as follows:

22 (a) An applicant for an air conditioning and refrigeration
23 contractor ~~[a]~~ license must submit a verified application on a form
24 prescribed by the executive director.

25 (c) The application must be accompanied by:

26 (1) a statement containing evidence satisfactory to
27 the executive director of the applicant's practical experience

1 required by Section 1302.255 [~~1302.255(a)(2)~~]; and

2 (2) the required fees [~~examination fee~~].

3 SECTION 14. Section 1302.257(b), Occupations Code, is
4 amended to read as follows:

5 (b) The executive director shall prescribe the method and
6 content of an examination administered under this subchapter
7 [~~chapter~~] and shall set compliance requirements for the
8 examination. To obtain an endorsement, an applicant must pass the
9 examination for the endorsement.

10 SECTION 15. Section 1302.260, Occupations Code, is amended
11 to read as follows:

12 Sec. 1302.260. ISSUANCE AND TERM OF LICENSE. (a) The
13 department [~~On payment of the license fee, the executive director~~]
14 shall issue an air conditioning and refrigeration contractor
15 license to an applicant who:

16 (1) submits a verified application;

17 (2) passes the applicable examination;

18 (3) meets the requirements of this chapter and rules
19 adopted under this chapter [~~subchapter~~];

20 (4) pays the required fees; and

21 (5) [~~(2)~~] provides evidence of insurance coverage
22 required by rule [~~the executive director~~] in accordance with this
23 chapter [~~and~~]

24 [~~(3) passes the applicable examination~~].

25 (b) A license issued under this chapter expires on the first
26 anniversary of the date of issuance [~~at the end of the license~~
27 ~~period set by the commission~~].

1 SECTION 16. Section 1302.263, Occupations Code, is amended
2 to read as follows:

3 Sec. 1302.263. LIMITATION ON LICENSE HOLDER [~~OR REGISTERED~~
4 ~~TECHNICIAN~~]. A person licensed as a contractor under this chapter
5 may not:

6 (1) perform or offer or attempt to perform an act,
7 service, or function that is:

8 (A) defined as the practice of engineering under
9 Chapter 1001, unless the person holds a license under that chapter;

10 (B) regulated under Chapter 113, Natural
11 Resources Code, unless the person holds a license or is exempt by
12 rule under that chapter; or

13 (C) defined as plumbing under Chapter 1301,
14 unless the person holds a license under that chapter; or

15 (2) use the services of a person who is not a
16 registered technician or a licensed air conditioning and
17 refrigeration contractor to assist in the performance of air
18 conditioning and refrigeration maintenance work.

19 SECTION 17. Section 1302.453(a), Occupations Code, is
20 amended to read as follows:

21 (a) A person commits an offense if the person:

22 (1) knowingly engages in air conditioning and
23 refrigeration contracting without holding a license issued under
24 this chapter; [~~or~~]

25 (2) knowingly engages in air conditioning and
26 refrigeration maintenance work without holding a contractor
27 license or technician registration issued under this chapter; or

1 (3) purchases a refrigerant or equipment containing a
2 refrigerant in this state in violation of Section 1302.353,
3 1302.355, or 1302.356.

4 SECTION 18. Section 1302.501, Occupations Code, is amended
5 by amending Subsection (b) and adding Subsection (c) to read as
6 follows:

7 (b) An air conditioning and refrigeration technician [A]
8 registration is valid throughout the state.

9 (c) A person is not required to obtain an air conditioning
10 and refrigeration technician registration if the person only
11 assists a licensed contractor in performing:

12 (1) the total replacement of a system; or

13 (2) the installation or repair of a boiler or pressure
14 vessel that must be installed in accordance with rules adopted
15 under Chapter 755, Health and Safety Code.

16 SECTION 19. Subchapter K, Chapter 1302, Occupations Code,
17 is amended by adding Section 1302.5035 to read as follows:

18 Sec. 1302.5035. ELIGIBILITY REQUIREMENTS. (a) An
19 applicant for a technician registration under this subchapter must
20 be at least 18 years old.

21 (b) An applicant for a technician registration is not
22 required to have practical experience or to take an examination to
23 obtain the registration.

24 SECTION 20. Section 1302.504, Occupations Code, is amended
25 to read as follows:

26 Sec. 1302.504. APPLICATION; FEE. (a) An applicant for an
27 air conditioning and refrigeration technician registration must

1 submit a verified ~~[an]~~ application on a form prescribed by the
2 executive director ~~[commission]~~.

3 (b) The completed application must be accompanied by the
4 required fees ~~[application fee]~~.

5 SECTION 21. Section 1302.505, Occupations Code, is amended
6 to read as follows:

7 Sec. 1302.505. ISSUANCE AND TERM OF REGISTRATION. (a) The
8 department shall issue an air conditioning and refrigeration
9 technician registration to an applicant who:

10 (1) submits a verified application;

11 (2) meets the requirements of this chapter and rules
12 adopted under this chapter; and

13 (3) pays the required fees ~~[On receipt of a completed~~
14 ~~application, the department shall register an applicant who meets~~
15 ~~the requirements of this subchapter]~~.

16 (b) A registration issued under this subchapter is valid for
17 one year from the date of issuance.

18 SECTION 22. Subchapter K, Chapter 1302, Occupations Code,
19 is amended by adding Section 1302.509 to read as follows:

20 Sec. 1302.509. LIMITATIONS ON REGISTRANT. A person
21 registered under this subchapter may not:

22 (1) perform, offer to perform, or attempt to perform
23 an act that is:

24 (A) defined as the practice of engineering under
25 Chapter 1001, unless the person holds a license under that chapter;

26 (B) regulated under Chapter 113, Natural
27 Resources Code, unless the person holds a license under that

1 chapter or is exempt by a rule adopted under that chapter; or
2 (C) defined as plumbing under Chapter 1301,
3 unless the person holds a license under that chapter; or
4 (2) assist a person who is not a licensed air
5 conditioning and refrigeration contractor in the performance of air
6 conditioning and refrigeration maintenance work.

7 SECTION 23. The following sections of the Occupations Code
8 are repealed:

- 9 (1) Section 1302.062;
10 (2) Section 1302.106;
11 (3) Section 1302.209;
12 (4) Sections 1302.257(c) and (d);
13 (5) Section 1302.502; and
14 (6) Section 1302.507.

15 SECTION 24. The Texas Commission of Licensing and
16 Regulation shall adopt the rules required by Sections
17 754.015(a)(8), (9), and (10), Health and Safety Code, as added by
18 this Act, not later than June 1, 2012.

19 SECTION 25. (a) The rules adopted under Section
20 754.015(a)(8), Health and Safety Code, as added by this Act, apply
21 only to an application or renewal application for registration of a
22 contractor filed on or after September 1, 2012. An application or
23 renewal application for registration of a contractor filed before
24 that date is governed by the law in effect immediately before the
25 effective date of this Act, and the former law is continued in
26 effect for that purpose.

27 (b) The rules adopted under Section 754.015(a)(9), Health

1 and Safety Code, as added by this Act, apply only to installation or
2 alteration of equipment performed under a contract or work order
3 entered into or issued on or after September 1, 2012. Installation
4 or alteration of equipment performed under a contract or work order
5 entered into or issued before September 1, 2012, is governed by the
6 law in effect immediately before the effective date of this Act, and
7 the former law is continued in effect for that purpose.

8 (c) Section 754.0173, Health and Safety Code, as added by
9 this Act, applies only to a registration issued or renewed on or
10 after September 1, 2012. A registration issued or renewed before
11 September 1, 2012, is covered by the law in effect immediately
12 before the effective date of this Act, and the former law is
13 continued in effect for that purpose.

14 (d) Section 754.0174, Health and Safety Code, as added by
15 this Act, and the rules adopted under Section 754.015(a)(10),
16 Health and Safety Code, as added by this Act, apply only to a
17 registration that is renewed on or after January 1, 2013. A
18 registration that is renewed before January 1, 2013, is covered by
19 the law in effect immediately before the effective date of this Act,
20 and the former law is continued in effect for that purpose.

21 SECTION 26. (a) Not later than March 1, 2012, the Texas
22 Commission of Licensing and Regulation shall adopt rules to
23 implement Chapter 1302, Occupations Code, as amended by this Act.

24 (b) Section 1302.255, Occupations Code, as amended by this
25 Act, applies only to an application for a license or registration
26 under that section submitted to the Texas Department of Licensing
27 and Regulation on or after November 1, 2012. An application for a

1 license, registration, or certification submitted under that
2 section before that date is governed by the law in effect on the
3 date the application was submitted, and the former law is continued
4 in effect for that purpose.

5 SECTION 27. This Act takes effect immediately if it
6 receives a vote of two-thirds of all the members elected to each
7 house, as provided by Section 39, Article III, Texas Constitution.
8 If this Act does not receive the vote necessary for immediate
9 effect, this Act takes effect September 1, 2011.

H.B. No. 2643

David Newkum

President of the Senate

Joe Straus

Speaker of the House

I certify that H.B. No. 2643 was passed by the House on May 3, 2011, by the following vote: Yeas 142, Nays 2, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 2643 on May 27, 2011, by the following vote: Yeas 112, Nays 24, 2 present, not voting.

Robert Haney

Chief Clerk of the House

I certify that H.B. No. 2643 was passed by the Senate, with amendments, on May 25, 2011, by the following vote: Yeas 31, Nays 0.

Patsy Spaw

Secretary of the Senate

APPROVED: _____

Date

Rick Perry

Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE

4 pm O'CLOCK

JUN 17 2011

Boyd Rutherford

Secretary of State